

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION

GARY BROOKS,)	
)	
)	
Plaintiff,)	CIVIL ACTION
v.)	
)	FILE NO.
MICHAEL A. MANUEL)	
TRUCKING, INC., GREAT WEST)	
CASUALTY COMPANY, and)	
TAYLOR WRIGHT,)	
)	
Defendants.)	

NOTICE OF REMOVAL

COME NOW Defendants TAYLOR WRIGHT, MICHAEL A. MANUEL TRUCKING, INC., AND GREAT WEST CASUALTY COMPANY (hereinafter “Defendants”), by and through the undersigned counsel pursuant to 28 U.S.C. § 1441(a) and (c), hereby files this Notice of Removal, respectfully showing the Court as follows:

1.

Gary Brooks (“Plaintiff”) commenced this personal injury action alleging that he was run over by a tractor-trailer on June 17, 2021 at a truck stop in Newnan Georgia. The Complaint was filed on April 24, 2023, in the State Court of Coweta County, Georgia, Civil Action File No. 23SV0297E against Defendants. A copy of

all pleadings and Defendants’ acknowledgments of service are attached hereto as Exhibit “A”.

Complete Diversity Jurisdiction Exists

2.

Plaintiff is a citizen of Georgia. See, Exhibit “A”, Complaint ¶ 1.

3.

At the time of the filing of the Complaint and to-date, Defendant Taylor Wright is a citizen and resident of the State of Virginia and domiciled at 483 Moore Lane, Brookneal, Virginia 24528. Defendant Taylor Wright consents to this Notice of Removal.

4.

Defendant Michael A. Manuel Trucking, Inc. is a corporation organized under the laws of the State of Virginia, with its principal place of business located at 341 Winners Court, Front Royal, Virginia 22630. See, Kong v. Allied Prof I Ins. Co., 750 F.3d 1295, 1299 (11th Cir. 2014) (“[a] corporation is generally deemed to be a citizen of every state in which it is incorporated, as well as the state in which it maintains its principal place of business.”) Accordingly, Michael A. Manuel Trucking, Inc. is a citizen of Virginia for purposes of diversity jurisdiction. Defendant Michael A. Manuel Trucking, Inc., consents to this Notice of Removal.

5.

Defendant Great West Casualty Company is a corporation organized under the laws of the State of Nebraska, with its principal place of business located at 1100 West 29th Street, South Sioux City, Nebraska 68776. See, supra, Kong at 1299. Accordingly, Great West Casualty Company is a citizen of Nebraska for purposes of determining diversity jurisdiction. Great West Casualty Company consents to this Notice of Removal.

6.

For purposes of diversity jurisdiction, a corporation is deemed to be a citizen of both the state of its incorporation and the state where it has its principal place of business. 28 U.S.C. § 1332(c); See also Hertz Corp. v. Friend, 559 U.S. 77, 92-93 (2010) (defining a corporation’s principal place of business as the “place where a corporation’s officers direct, control, and coordinate the corporation’s activities”). Thus, all Defendants are residents and citizens of states other than Georgia, and none of the Defendants are citizens of the State of Georgia. Therefore, complete diversity of citizenship exists between Plaintiff and Defendants for purposes of 28 U.S.C. § 1332(c)(1).

The Amount in Controversy Exceeds \$75,000.00

7.

Plaintiff seeks judgment against the named-Defendants for sums in excess of \$75,000.00, exclusive of interest and costs. In her Complaint, Plaintiff asserts that Defendants are liable for Plaintiff's medical expenses of \$137,516.79. See, Exhibit "A", Complaint ¶ 45. Defendants deny duty, breach, proximate cause and damages. Thus, the amount in controversy exceeds the jurisdictional threshold of \$75,000.00.

Removal is Timely and Proper

8.

With respect to removal on the basis of diversity jurisdiction, this removal is timely because it has been filed within thirty (30) days of the first Defendant being served, and less than thirty (30) days from commencement of the action. See, Fed. R. Civ. P. 6(a)(1)(C). This Notice of Removal is also timely because it is filed within thirty (30) days after receipt by Defendants of a copy of the initial pleading setting forth the claim upon which this action is based. 28 U.S.C. § 1446(b).

9.

Moreover, removal is proper because all Defendants consent to removal. See, Jones v. Commonwealth Land Title Ins. Co., 459 Fed.Appx. 808, 810 (11th Cir. 2012)

Venue is Proper in the Northern District

10.

The foregoing action is properly removable to this Court pursuant to 28 U.S.C. §§ 1441(a), 1446(a) and 1446(b), and 1332(a) because there is complete diversity of citizenship between Plaintiffs and Defendants, and the matter in controversy exceeds the sum of \$75,000.00.

11.

The United States District Court for the Northern District of Georgia is the proper venue for removal under 28 U.S.C. § 1441(a) because the Northern District, Newnan Division, encompasses Coweta County. *See* 28 U.S.C. § 90(a)(2).

The Unanimity Requirement is Met Here

12.

The Supreme Court has construed the removal statutes to require all defendants in a case to consent to removal, thus creating the so-called “unanimity requirement.” See Russell Corp. v. Am. Home Assurance Co., 264 F.3d 1040, 1050 (11th Cir. 2001)(citing Chicago, Rock Island, & Pac. Ry. Co. v. Martin, 178 U.S. 245, 247-48 (1900)). All Defendants consent to this Notice of Removal.

Removal is Proper

13.

No previous application for the relief sought herein has been made to this or any other Court.

14.

Good and sufficient defenses to Plaintiff's claims exist.

15.

Within thirty (30) days after service on Defendants, notice is hereby given in accordance with 28 U.S.C. § 1446 and Rule 11 of the Federal Rules of Civil Procedure of the removal of said action to this Court.

16.

Defendants have given written notice of the filing of the Notice of Removal to Plaintiff and to the Clerk of the State Court of Coweta County. A copy of the Notice of Filing Notice of Removal is attached hereto as Exhibit "B".

WHEREFORE it is hereby requested that this Court grant the removal of this case to the United States District Court for the Northern District of Georgia, in which district this suit is pending.

{Signature on following page}

Respectfully submitted this 15th day of May, 2023.

MCMICKLE, KUREY & BRANCH, LLP

/s/ Paschal Glavinos

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CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that the foregoing pleading complies with the font and point selections approved by the Court in Local Rule 5.1.C. This pleading has been prepared in Times New Roman, 14-point font.

This 15th day of May, 2023.

/s/ *Paschal Glavinos*

Paschal Glavinos

For the Firm

CERTIFICATE OF SERVICE

This is to certify that on this date I have electronically filed the foregoing **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Tyler Bridgers
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Attorney for Plaintiff

This 15th day of May, 2023.

/s/ Paschal Glavinos
PASCHAL GLAVINOS
For the Firm